

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2007-4

DONALD G. YANSSENS
1316 26th Street
Sacramento, CA 95816

CPA Certificate No. 34961

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 20, 2006.

It is so ORDERED September 20, 2006.


FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

BILL LOCKYER, Attorney General
of the State of California
KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
California Department of Justice
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Attorneys for Complainant

**BEFORE THE
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Respondent.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Carol Sigmann (Complainant) is the Executive Officer of the California
Board of Accountancy. She brought this action solely in her official capacity and is represented
in this matter by Bill Lockyer, Attorney General of the State of California, by Kent D. Harris,
Deputy Attorney General.

2. Donald G. Yanssens (Respondent) is representing himself in this
proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about May 7, 1982, the California Board of Accountancy issued
CPA Certificate No. 34961 to Donald G. Yanssens (Respondent). The Certificate was in full

1 force and effect at all times relevant to the charges brought in Accusation No. AC-2007-4 and
2 will expire on November 30, 2006, unless renewed.

3 JURISDICTION

4 4. Accusation No. AC-2007-4 was filed before the California Board of
5 Accountancy (Board), Department of Consumer Affairs, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on 8/29/06. Respondent timely filed his Notice of Defense contesting the
8 Accusation. A copy of Accusation No. AC-2007-4 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations
12 in Accusation No. AC-2007-4. Respondent has also carefully read, and understands the effects
13 of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
17 the right to present evidence and to testify on his own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation No. AC-2007-4.

26 9. Respondent agrees that his CPA Certificate is subject to discipline and he
27 agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order
28 below.

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- 1 2. **Obey All Laws.** Respondent shall obey all federal, California, other
2 states' and local laws, including those rules relating to the practice of public accountancy in
3 California.
- 4 3. **Submit Written Reports.** Respondent shall submit, within ten (10) days
5 of completion of the quarter, written reports to the Board on a form obtained from the Board.
6 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
7 and verification of actions as are required. These declarations shall contain statements relative to
8 Respondent's compliance with all the terms and conditions of probation. Respondent shall
9 immediately execute all release of information forms as may be required by the Board or its
10 representatives.
- 11 4. **Personal Appearances.** Respondent shall, during the period of probation,
12 appear in person at interviews/meetings as directed by the Board or its designated
13 representatives, provided such notification is accomplished in a timely manner.
- 14 5. **Comply With Probation.** Respondent shall fully comply with the terms
15 and conditions of the probation imposed by the Board and shall cooperate fully with
16 representatives of the Board of Accountancy in its monitoring and investigation of the
17 Respondent's compliance with probation terms and conditions.
- 18 6. **Practice Investigation.** Respondent shall be subject to, and shall permit,
19 practice investigation of the Respondent's professional practice. Such a practice investigation
20 shall be conducted by representatives of the Board, provided notification of such review is
21 accomplished in a timely manner.
- 22 7. **Comply With Citations.** Respondent shall comply with all final orders
23 resulting from citations issued by the Board of Accountancy.
- 24 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
25 Respondent should leave California to reside or practice outside this state, Respondent must
26 notify the Board in writing of the dates of departure and return. Periods of non-California
27 residency or practice outside the state shall not apply to reduction of the probationary period, or
28 of any suspension. No obligation imposed herein, including requirements to file written reports,

1 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
2 affected by such periods of out-of-state residency or practice except at the written direction of the
3 Board.

4 9. **Violation of Probation.** If Respondent violates probation in any respect,
5 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
6 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
7 probation is filed against Respondent during probation, the Board shall have continuing
8 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
9 is final.

10 10. **Completion of Probation.** Upon successful completion of probation,
11 Respondent's license will be fully restored.

12 11. **Restricted Practice: No Audits.** Respondent shall be **permanently**
13 **prohibited from performing audits.** Probation on this condition shall continue until such time,
14 if ever, respondent successfully petitions the Board for the reinstatement of his ability to perform
15 audits. Respondent understands and agrees that the Board is under no obligation to reinstate
16 respondent's ability to perform audits, that the Board has made no representations concerning
17 whether any such reinstatement might occur, and that the decision to reinstate is within the sole
18 discretion of the Board.

19 12. **Active License Status.** Respondent shall at all times maintain an active
20 license status with the Board, including during any period of suspension. If the license is expired
21 at the time the Board's decision becomes effective, the license must be renewed within 30 days of
22 the effective date of the decision.

23 13. **Cost Reimbursement.** Respondent shall reimburse the Board \$ 5,837.10
24 for its costs of investigation and enforcement of this case. The reimbursement shall be made in
25 quarterly payments (due with the quarterly written reports). The final payment shall be made no
26 later than six (6) months before probation is scheduled to end.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my CPA Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: August 29, 2006.

Donald G. Yanssens
DONALD G. YANSSENS
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: _____

BILL LOCKYER, Attorney General
of the State of California

KENT D. HARRIS
Deputy Attorney General
Attorneys for Complainant

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my CPA Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

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Donald G. Yanssens
DONALD G. YANSSENS
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: 8/29/06

BILL LOCKYER, Attorney General
of the State of California

Kent D. Harris
KENT D. HARRIS
Deputy Attorney General

Attorneys for Complainant

DOJ Docket/Matter ID Number: 03541 110SA2006102262
Yanssens stipulation.wpd

Exhibit A

Accusation No. AC-2007-4

1 BILL LOCKYER, Attorney General
of the State of California
2 KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
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5 Telephone: (916) 324-7859
Facsimile: (916) 327-8643
6
7 Attorneys for Complainant

8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2007-4

13 DONALD G. YANSSENS
1316 26th Street
Sacramento, CA 95816

A C C U S A T I O N

14 CPA Certificate No. 34961

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Complainant Carol Sigmann brings this Accusation solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs.

22 2. On or about May 7, 1982, the California Board of Accountancy issued
23 Certified Public Accountant Certificate Number CPA 34961 to Donald G. Yanssens
24 (Respondent). The Certified Public Accountant Certificate was expired from December 1, 1988,
25 through August 1, 1990; from December 1, 1990, through December 29, 1990; from
26 December 1, 1992, through December 29, 1992; from December 1, 1994, through December 28,
27 1994; from December 1, 1996 through December 22, 1996; and from December 1, 1998, through
28 September 4, 2000, due to non-payment of fees and failure to certify compliance with required

1 continuing education. Effective September 5, 2000, the certificate was renewed through
2 November 30, 2000, upon receipt of the renewal fee and declaration of compliance with
3 continuing education requirement "active." The certificate was renewed effective December 1,
4 2002, through May 4, 2004, without continuing education. Effective May 5, 2004, the certificate
5 was converted to "active" status through November 30, 2004. The certificate is currently
6 renewed through November 30, 2006.

7 JURISDICTION

8 3. This Accusation is brought before the California Board of Accountancy
9 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code ("Code") unless otherwise indicated.

11 4. Section 5100 of the Code provides in pertinent part that after notice and
12 hearing the Board may revoke, suspend or refuse to renew any permit or certificate granted under
13 Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or
14 may censure the holder of that permit or certificate for unprofessional conduct.

15 5. Section 5100(c) of the Code provides in pertinent part that dishonesty and
16 gross negligence or repeated negligent acts constitute unprofessional conduct within the meaning
17 of Code section 5100, above.

18 6. Section 5100(g) of the Code provides in pertinent part that willful
19 violation of the Code or any rule or regulation promulgated by the Board constitutes
20 unprofessional conduct within the meaning of Code section 5100, above.

21 7. California Code of Regulations ("CCR"), title 16, section 58 provides that
22 licensees engaged in the practice of public accountancy shall comply with all applicable
23 professional standards, including but not limited to generally accepted accounting principles and
24 generally accepted auditing standards.

25 8. Section 5062 of the Code provides that a licensee shall issue a report
26 which conforms to professional standards upon completion of a compilation, review or audit of
27 financial statements.

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1 9. Section 5050 of the Code provides that no person shall engage in the
2 practice of public accountancy in this state unless the person is the holder of a valid permit to
3 practice public accountancy issued by the board.

4 10. Section 5051 of the Code states, in pertinent part, that a person shall be
5 deemed to be engaged in the practice of public accountancy within the meaning and intent of this
6 chapter if he does, but not limited to, the following:

7 "...(d) Prepares or certifies for clients reports on audits or examinations of books
8 or records of account, balance sheets, and other financial, accounting and related schedules,
9 exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining
10 credit, for filing with a court of law or with any governmental agency, or for any other purpose."

11 11. California Code of Regulations ("CCR"), title 16, section 80 provides that
12 the holder of an inactive license shall not engage in the practice of public accountancy as defined
13 in Section 5051 of the Business and Professions Code.

14 12. Code section 5107 provides for recovery by the Board of all reasonable costs
15 of investigation and prosecution of the case, including, but not limited to, attorney's fees. A
16 certified copy of the actual costs, or a good faith estimate of costs signed by the Executive
17 Officer, constitute prima facie evidence of reasonable costs of investigation and prosecution of
18 the case.

19 13. Code Sections 118(b) and 5109 provide in pertinent part that the
20 suspension, expiration, cancellation, or forfeiture of a license issued by the Board shall not,
21 deprive the Board of its authority to investigate, or to institute or continue a disciplinary
22 proceeding against a licensee upon any ground provided by law, or to enter an order suspending
23 or revoking the license or otherwise taking disciplinary action against the licensee on any such
24 ground.

25 Professional Standards

26 14. At all times material herein, **Generally Accepted Auditing Standards**
27 ("GAAS") were and are standards and principles for performing audits. GAAS are promulgated
28 by the American Institute of Certified Public Accountants ("AICPA"). GAAS include ten (10)

1 broad standards classified as General Standards, Standards for Fieldwork and Standards of
2 Reporting. At all times material herein, Statements on Auditing Standards ("SAS") were and are
3 periodic interpretations of the ten GAAS general principles issued by the Auditing Standards
4 Board of the AICPA. SAS are codified by "AU" numbers.

5 15. At all times material herein, **Generally Accepted Governmental**
6 **Auditing Standards** ("GAGAS") were and are standards applicable to the performance of an
7 audit. GAGAS are discussed in *Government Auditing Standards* ("Yellow Book", 1999 version
8 applicable) and codified by GAGAS number.

9 16. At all times material herein, reporting (disclosure) standards required
10 under **Generally Accepted Accounting Principles** ("GAAP") are issued by either the Financial
11 Accounting Standards Board ("FASB") or its predecessors the Accounting Principles Board and
12 the Committee on Accounting Research Bulletins. "FAS," "APB," or "ARB" denote
13 pronouncements issued by these bodies. The currently effective accounting and reporting
14 standards are integrated in the FASB "Current Text" by subject and are denoted by "CT".

15 17. At all times material herein, additional reporting (disclosure) standards are
16 published in **Statements of Position** published by the American Institute of Certified Public
17 Accountants in its volumes containing Technical Practice Aids. Specific statements are
18 designated by "SOP" followed by the number of the referenced statement.

19 FACTS

20 18. Respondent was engaged to perform, and did perform, an audit of Carey's
21 Care Center ("CCC"), for the fiscal year ended June 30, 2003. On or about December 21, 2003,
22 Respondent issued the Report on Compliance and on Internal Control Over Financial Reporting
23 Based on an Audit of Financial Statement Performed in Accordance with *Governmental Auditing*
24 *Standards* ("Compliance Report"). On or about December 22, 2003, Respondent issued the
25 Independent Auditor's Report for "CCC."

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1 19. In preparing the Independent Auditor's Report and Compliance Report for
2 "CCC," Respondent prepared working papers to support the audit examination. The working
3 papers lacked required information and documentation and failed to meet the following GAAS
4 guidelines:

5 a. The working papers failed to include written audit programs in violation of
6 AU sections 311.05 and 339.03.

7 b. The working papers failed to contain evidence of audit planning, including
8 the use of analytical procedures in the planning or the review of the "CCC" audit, a consideration
9 of audit risk, a preliminary judgement about materiality, and an assessment of the risk of material
10 misstatement due to fraud, in violation of AU sections 329.01, 312.12, 316.12, and 316.37.

11 c. The working papers failed to document an understanding of "CCC's"
12 internal control structure, in violation of AU sections 319.02 and 319.61 and GAGAS sections
13 4.21 and 4.21.1.

14 d. The working papers failed to document conclusions about the auditor's
15 assessed level of control risk, in violation of AU section 319.83.

16 e. The working papers did not contain documentation of the auditor's
17 procedures designed and performed to provide reasonable assurance that the financial statements
18 were free from material misstatements resulting from violations of laws and regulations that have
19 a direct and material effect on the determination of financial statement amounts in violation of
20 AU section 801.10 and GAGAS section 4.30.

21 f. The working papers did not contain a client representation letter, in
22 violation of AU sections 333.01 and 333.03.

23 g. The working papers did not include an attorney representation letter, in
24 violation of AU sections 337.06 and 337.08.

25 h. The working papers did not contain evidence of the application of
26 procedures to determine the occurrence of subsequent events that may have required adjustment
27 or disclosure essential to the fair presentation of financial statements of "CCC," in violation of
28 AU section 560.12.

1 20. The financial statements and accompanying notes to the financial
2 statements for "CCC", failed to include disclosures required under GAAP.

3 a. The notes accompanying the financial statements failed to include an
4 explanation that the preparation of financial statements in conformity with GAAP requires the
5 use of management's estimates, in violation of SOP 94-6.

6 b. The notes accompanying the financial statements failed to disclose
7 "CCC's" management policy for determining which items are treated as cash equivalents, in
8 violation of the AICPAs Professional Standard, CT 25.108.

9 c. The notes accompanying the financial statements failed to disclose a
10 material related party transaction, in violation of the AICPAs Professional Standard, CT
11 R36.102.

12 21. The Independent Auditor's Report issued to "CCC" for the fiscal year
13 ended June 30, 2003, failed to include qualifying language required by the omission of financial
14 statement disclosures, as described in paragraphs 20 through 20c, herein above, in violation of
15 AU section 508.41.

16 22. The Independent Auditor's Report issued to "CCC" for the fiscal year
17 ended June 30, 2003, failed to state that the accompanying Compliance Report was an integral
18 part of a GAGAS audit and that the report should be read along with the auditor's report on
19 financial statements, in violation of GAGAS section 5.16.1.

20 23. The Compliance Report issued to "CCC" for the fiscal year ended June 30,
21 2003, failed to state that distribution of the report was restricted to its intended users, in violation
22 of AU sections 532.04 and 532.19.

23 **FIRST CAUSE OF ACTION**

24 (Gross Negligence in Practice of Public Accountancy)
25 (Bus. & Prof. Code § 5100(c))

26 24. Respondent is subject to discipline under Business and Professions Code
27 section 5100(c), in that respondent committed gross negligence and repeated negligent acts in the
28 audit engagement for "CCC" through the numerous deviations from professional standards in the

1 working papers supporting the audit examination of "CCC", as described in paragraph 19 and all
2 of its sub-parts above, and deviations in the accompanying notes to the financial statements, as
3 described in paragraph 20 and all of its sub-parts above.

4 25. The Certified Public Accountant certificate held by respondent
5 is subject to discipline under Business and Professions Code section 5100(c), in that respondent
6 committed gross negligence and repeated negligent acts in the audit engagement for "CCC"
7 through the deviations from professional standards regarding the Independent Auditor's Report
8 and Compliance Report issued to "CCC" as described in paragraphs 21 through 23 above.

9 **SECOND CAUSE OF ACTION**

10 (Failure to Comply with Professional Standards)
11 (Bus. & Prof. Code § 5100 (g); Cal. Code Regs., tit. 16, § 58)

12 26. Respondents' conduct as set forth in paragraphs 19 and 20 and all of their
13 sub-parts, constitutes the failure to comply with professional standards within the meaning of
14 California Code of Regulations, title 16, section 58 and therefore unprofessional conduct within
15 the meaning of Code section 5100(g).

16 **THIRD CAUSE OF ACTION**

17 (Report Not Conforming to Professional Standards)
18 (Bus. & Prof. Code §§ 5062, 5100 (g))

19 27. Respondents' conduct as set forth in paragraphs 21 through 23 above,
20 constitutes the failure to issue a report which conforms to professional standards upon
21 completion of an audit of financial statements within the meaning of Code section 5062 and
22 therefore unprofessional conduct within the meaning of Code section 5100(g).

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1 **FOURTH CAUSE OF ACTION**

2 (Practicing With An Inactive License)
3 (Bus. & Prof. Code §§ 5050, 5100 (g); Cal. Code Regs., tit. 16, § 80(a))

4 28. Respondent is subject to disciplinary action pursuant to section 5100(g)
5 and 5050 of the Code and in violation of California Code of Regulations, title 16, section 80(a),
6 in that Respondent engaged in the practice of public accountancy as defined under Code section
7 5051(g) with an "inactive" CPA license as follows:

8 a. On or about December 1, 2002, Respondent was renewed to "inactive" status. On
9 or about May 5, 2004, the certificate was converted to "active" status through November 30,
10 2006. However, on or about October 10, 2003, Respondent accepted an engagement to perform
11 audit services for "CCC" for the year ended June 30, 2003. At the conclusion of the audit,
12 Respondent issued audit reports to "CCC" dated on or about December 21, 2003, and
13 December 22, 2003.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein
16 alleged and that, following the hearing, the California Board of Accountancy issue a decision:

17 A. Revoking, suspending, or otherwise imposing discipline on
18 Certified Public Accountant Certificate Number CPA 34961, issued to Donald G. Yanssens;

19 B. Ordering Donald G. Yanssens to pay the California Board of
20 Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to
21 Business and Professions Code section 5107; and

22 C. Taking such other and further action as may be deemed just and
23 proper.

24 DATED: August 25, 2006


CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California

Complainant